

The Gazette of India



**EXTRAORDINARY
PART II—Section 2
PUBLISHED BY AUTHORITY**

No. 2] NEW DELHI, THURSDAY, FEBRUARY 19, 1958

HOUSE OF THE PEOPLE

The following Report of the Select Committee on the Bill to make provisions for the prevention of adulteration of food, was presented to the House of the People on 14th February, 1958:—

MEMBERS OF THE SELECT COMMITTEE*

Rajkumari Amrit Kaur.—*Chairman.*

Shri Santosh Kumar Dutta.

Shri Lokenath Mishra.

Dr. Ram Subhag Singh.

Shri Kailash Pati Sinha.

Shri Hira Singh Chinaria.

Shri Amarnath Vidyalkar.

Shri Bheekha Bhai.

Sardar Raj Bhanu Singh Tewari.

Shri K. G. Deshmukh.

Shri Vaijanath Mahodaya.

Shri T. Madiiah Gowda.

Shri Halaharvi Sitarama Reddy.

Shri K. Periaswami Gounder.

Shri Maneklal Maganlal Gandhi.

Shri Rajaram Giridharlal Dubey.

Shri Hoti Lal Agarwal.

Shri Biswa Nath Roy.

Shrimati Uma Nehru.

Shri Narayan Sadoba Kajrolkar.

Shri C. R. Narasimhan.

Shri R. V. Dhulekar.

Dr. Indubhai B. Amin.

Sardar Lal Singh.
 Shri K. Kelappan.
 Dr. Ch. V. Rama Rao.
 Shri Tridib Kumar Chaudhari.
 Shrimati Sucheta Kripalani.
 Shrimati Indira A. Maydeo.
 Shri Hirendranath Mukerjee.
 Shri Shankar Shantaram More.
 Dr. P. S. Deshmukh.
 Shrimati M. Chandrasekhar.

REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill to make provision for the prevention of adulteration of food was referred, have considered the Bill and I now submit this their Report, with the Bill as amended by the Select Committee annexed hereto.

2. Upon the changes proposed in the Bill which are not formal or consequential, the Select Committee note as follows:—

Clause 1.—The amendment of the short title is to bring out the object of the Act more clearly.

A commencement clause has now been inserted in order to enable the State Governments in particular, to bring section 7 of the Act into force in their States or parts thereof on suitable dates.

Clause 2.—Apart from clarificatory amendments in clauses (i)(a) and (b), in sub-clause (f), certain redundant words have been omitted and the words "or is insect-infested" added to cover all the articles of food like *atta* and flour which are often found to be weevil-infested;

In sub-clause (g), the words "or from an animal fed upon unwholesome food" have been omitted as it is often difficult to detect whether an animal was fed upon unwholesome food and also because the retention of these words would include fowls and pigs within its ambit.

Clause 3.—The Select Committee have reduced the number of experts in item (c) of sub-clause (2) and have at the same time widened the choice for selection. The Select Committee also feel that representatives of industry, commerce and the medical profession should also be on the Committee and the clause has been amended accordingly.

Clauses 5 and 7.—As a commencement provision has now been inserted in clause 1, the words omitted are no longer necessary. Incidentally, in clause 7, the Select Committee have inserted the word "store" in conformity with the language of clause 16(1).

Clause 10.—The Select Committee have amended this clause in order to provide

(a) that in suitable cases, for example, where the articles are bulky in nature, they will be left in the custody of the vendor after seizure;

(b) that the power to break open the door of any premises is exercised reasonably;

(c) that food inspectors are also empowered to seize any material which may be used as an adulterant;

(d) that food inspectors have the powers of a Police Officer under section 57 of the Code of Criminal Procedure for the purposes of ascertaining the name and address of offenders and that food inspectors do not exercise their powers vexatiously.

Clause 11.—The Select Committee feel that in some cases, as for example in the case of integral packages, it may not always be possible to separate the sample of food into three parts. Hence the words "except in special cases provided by rules under this Act" have been inserted at the beginning of item (b) of sub-clause (1). The Select Committee have omitted sub-clause (4) as unnecessary.

In order to provide against any undue delay caused by any food inspector in the production of any seized article of food specially of a perishable nature, before the magistrate, the Select Committee feel that the owner of the article should also have the power to apply to the magistrate for production of the article of food. The Select Committee have accordingly added a second proviso to sub-clause (5).

The Select Committee have added a new sub-clause (6) providing for cases where an article of food is found by the magistrate to be not adulterated.

Clause 12.—The Select Committee feel that sub-clause (2) is quite unnecessary but at the same time the Select Committee are of the view that the purchaser should inform the vendor at the time of purchase and not afterwards, of his intention to have an article of food purchased by him analysed. The Select Committee have, therefore, recast this whole clause.

Clause 13.—Sub-clause (2) has been recast from a drafting point of view. The proviso to sub-clause (5) has been revised because in the opinion of the Select Committee only the Director of the Central Food Laboratory should have the privilege of exemption from appearing in courts in connection with any certificates issued under this Act.

Clause 16.—In order to make the Act effective, the Select Committee are of the opinion that the penalty should be made more deterrent and provision should also be made for the publication of names of contumacious offenders. They also feel that—

(a) manufacturers of articles of food who have in their possession adulterants; or

(b) persons who tamper with any seized article; or

(c) persons who use reports or certificates of analysis for the purpose of advertisement; and

(d) persons who give false warranties to purchasers of articles of food;

should also be punished. The clause has, therefore, been recast accordingly.

Clause 19.—Sub-clause (4) has been omitted because it may offer a loophole to an employer who is the real offender, to escape.

Clause 20.—In view of the enhanced penalties now leviable, jurisdiction to try offences in the first instance should be given to presidency magistrates and magistrates of the 1st class.

Clause 21.—This is new and authorises a presidency magistrate or a magistrate of the 1st class to award any punishment in excess of his powers.

Clause 23 (old clause 22).—The Select Committee feel that the Central Government should have power to make rules for imposing rigorous control over the production and distribution or sale not only of milk, milk products, vanaspati and edible oils but also of any article of food which the Central Government may specify in this behalf. The Select Committee have, therefore, combined items (c) and (d) into one single item and have omitted specific references to milk, milk products, vanaspati and edible oils.

The rule-making power has been expanded.

Clause 24 (old clause 23).—Apart from minor amendments, the Select Committee have included local authorities in sub-clause 2(e) to which powers could be delegated.

Clause 25 (old clause 24).—The amendment to the proviso to sub-clause (1) is consequential upon the amendment to clause 1. Sub-clause (2) has been inserted in order to provide for the continued operation of existing rules, regulations and bye-laws until new rules, regulations or bye-laws are framed.

8. The Bill was published in Part II, Section 2 of the *Gazette of India*, dated the 15th November, 1952.

AMRIT KAUR,

Chairman of the Select Committee.

NEW DELHI,

The 14th February, 1953.

MINUTE OF DISSENT

We feel it necessary to record our dissent from the provision, recommended by the majority in the Select Committee, of minimum punishment by the Courts in cases of conviction for food adulteration. We agree, of course, that food adulteration is a serious offence and every effort is justified if it proves a real deterrent. But we fear that in the present position of affairs in the country, there are likely to be more prosecutions against the smaller fry (who are often pawns in the game of cleverer and more resourceful people) than against big men behind transactions that are primarily responsible for the adulteration of our people's food. We are of opinion that the judiciary may well be left its discretion regarding minimum punishment. Otherwise we are afraid, there might be cases of acquittal where, on account of a rigid insistence on minimum punishment, the trying magistrates would feel that such punishment might not be warranted by the circumstances though a lesser punishment might well prove helpful in the campaign against food adulteration.

2. Therefore we suggest that the provisos under sub-clauses (b) and (c) in clause 18 be omitted.

3. Secondly, under clause 12, it is mandatory for the purchaser to inform the vendor of his intention to have the article analysed.

4. We feel it should be optional for the purchaser to inform the vendor though it may lessen the chances of direct prosecution. Therefore we suggest that "may" be substituted for "shall" in the proviso under clause 12.

HIRENDRA NATH MUKERJEE,

CH. V. RAMA RAO.

NEW DELHI;

The 14th February, 1958.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

BILL No. 101A OF 1952

A Bill to make provision for the prevention of adulteration of food.

Enacted by Parliament as follows :—

PRELIMINARY

1. Short title, * extent and commencement.—(1) This Act may be called the Prevention of Food Adulteration Act, 1958.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; but section 7 shall take effect in any State only from such date as the State Government may, by like notification, appoint and different dates may be appointed by the State Government for different areas of the State.

2. Definitions.—In this Act, unless the context otherwise requires,—

(i) "adulterated"—an article of food shall be deemed to be adulterated—

(a) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be;

(b) if the article contains any other substance which affects, or if the article is so processed as to affect, injuriously the nature, substance or quality thereof;

(c) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof:

(d) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof ;

(e) if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health ;

(f) if the article, * * * consists wholly or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption ;

(g) if the article is obtained from a diseased animal ;

* * *

(h) if * * * the article contains any poisonous or other ingredient which renders it injurious to health ;

(i) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders its contents injurious to health ;

(j) if any colouring matter other than that prescribed in respect thereof and in amounts not within the prescribed limits of variability is present in the article ;

(k) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits ;

(l) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability ;

(ii) "Central Food Laboratory" means any laboratory or institute established or specified under section 4 ;

(iii) "Committee" means the Central Committee for Food Standards constituted under section 8 ;

(iv) "Director of the Central Food Laboratory" means the person appointed by the Central Government by notification in the Official Gazette as the Director of the Central Food Laboratory and includes any person appointed by the Central Government in like manner to perform all or any of the functions of the Director under this Act ;

(v) "food" means any article used as food or drink by man, other than drugs and water and includes—

(a) any article which ordinarily enters into, or is used in the composition or preparation of human food, and

(b) any flavouring matter or condiments ;

(vi) "Food (Health) Authority" means the Director of Medical and Health Services or the Chief Officer in charge of Health administration in a State by whatever name he is called ;

(vii) "local area" means any area, whether urban or rural, declared by the State Government, by notification in the Official Gazette, to be a local area for the purposes of this Act ;

(viii) "local authority" means in the case of—

(1) a local area which is—

(a) a municipality, the municipal board or municipal corporation;

(b) a cantonment, the cantonment authority;

(c) a notified area, the notified area committee;

(2) any other local area, such authority as may be prescribed by the State Government under this Act;

(ix) "misbranded"—an article of food shall be deemed to be misbranded—

(a) if it is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character ;

(b) if it is falsely stated to be the product of any place or country ;

(c) if it is sold by a name which belongs to another article of food ;

(d) if it is so coloured, flavoured or coated, powdered or polished that the fact that the article is damaged is concealed or if the article is made to appear better or of greater value than it really is;

(e) if false claims are made for it upon the label or otherwise ;

(f) if, when sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer and which bear his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act ;

(g) if the package containing it, or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular : or if the package is otherwise deceptive with respect to its contents ;

(h) if the package containing it or the label on the package bears the name of a fictitious individual or company as the manufacturer or producer of the article ;

(i) if it purports to be, or is represented as being, for special dietary uses, unless its label bears such information as may be prescribed concerning its vitamin, mineral, or other dietary properties in order sufficiently to inform its purchaser as to its value for such uses ;

(j) if it contains any artificial flavouring, artificial colouring or chemical preservative, without a declaratory label stating that fact, or in contravention of the requirements of this Act or rules made thereunder ;

(k) if it is not labelled in accordance with the requirements of this Act or rules made thereunder ;

(x) "package" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which an article of food is placed or packed ;

(xi) "premises" include any manufacturing shop, stall, or place where any article of food is sold or manufactured or stored for sale ;

(xii) "prescribed" means prescribed by rules made under this Act ;

(xiii) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article ;

(xiv) "sample" means a sample of any article of food taken under the provisions of this Act or of any rules made thereunder ;

(xv) the words "unwholesome" and "noxious" when used in relation to an article of food mean respectively that the article is harmful to health or repugnant to human use.

CENTRAL COMMITTEE FOR FOOD STANDARD AND CENTRAL FOOD LABORATORY

3. The Central Committee for Food Standards.—(1) The Central Government shall, as soon as may be after the commencement of this Act, constitute a Committee called the Central Committee for Food Standards to advise the Central Government and the State Governments on matters arising out of the administration of this Act and to carry out the other functions assigned to it under this Act.

(2) The Committee shall consist of the following members, namely:—

(a) the Director-General, Health Services, *ex-officio*, who shall be the Chairman ;

(b) the Director of the Central Food Laboratory, *ex-officio*;

(c) two experts * * * * * nominated by the Central Government;

(d) one representative each of the Central Ministries of Food and Agriculture, Commerce and Industry, Railways and Defence nominated by the Central Government;

(e) one representative each nominated by the Government of each Part A State and Part B State ;

(f) two representatives nominated by the Central Government to represent the Part C States;

(g) two representatives of industry and commerce nominated by the Central Government;

(h) one representative of the medical profession nominated by the Indian Council of Medical Research.

(3) The members of the Committee referred to in clauses (c), (d), (e), (f), (g) and (h) of sub-section (2) shall, unless their seats become vacant earlier by resignation, death or otherwise, be entitled to hold office for three years and shall be eligible for renomination.

(4) The functions of the Committee may be exercised notwithstanding any vacancy therein.

(5) The Committee may appoint such and so many sub-committees as it deems fit and may appoint to them persons who are not members of the Committee to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Committee may impose, be delegated to them by the Committee.

(6) The Committee may, subject to the previous approval of the Central Government, make bye-laws for the purpose of regulating its own procedure and the transaction of its business.

4. Central Food Laboratory.—(1) The Central Government may, by notification in the Official Gazette,—

(a) establish a Central Food Laboratory; or

(b) specify any laboratory or institute as a Central Food Laboratory;

to carry out the functions entrusted to the Central Food Laboratory by this Act or any rules made under this Act.

(2) The Central Government may, after consultation with the Committee, make rules prescribing—

(a) the functions of the Central Food Laboratory;

(b) the procedure for the submission to the said Laboratory of samples of articles of food for analysis or tests, the forms of the Laboratory's reports thereon and the fees payable in respect of such reports;

(c) such other matters as may be necessary or expedient to enable the said Laboratory to carry out its functions.

GENERAL PROVISIONS AS TO FOOD

5. Prohibition of import of certain articles of food.—

* * No person shall import into India—

(i) any adulterated food;

(ii) any misbranded food;

(iii) any article of food for the import of which a licence is prescribed, except in accordance with the conditions of the licence; and

(iv) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

6. Application of law relating to sea customs and powers of Customs Officers.—(1) The law for the time being in force relating to sea customs and to goods, the import of which is prohibited by section 18 of the Sea

Customs Act, 1878 (VIII of 1878) shall, subject to the provisions of section 16 of this Act, apply in respect of articles of food, the import of which is prohibited under section 5 of this Act, and officers of Customs and officers empowered under that Act to perform the duties imposed thereby on a Customs Collector and other officers of Customs shall have the same powers in respect of such articles of food as they have for the time being in respect of such goods as aforesaid.

(2) Without prejudice to the provisions of sub-section (1) the Customs Collector, or any officer of the Government authorized by the Central Government in this behalf, may detain any imported package which he suspects to contain any article of food the import of which is prohibited under section 5 of this Act and shall forthwith report such detention to the Director of the Central Food Laboratory and, if required by him, forward the package or send samples of any suspected article of food found therein to the said Laboratory.

7. Prohibition of manufacture, sale, etc., of certain articles of food.—

* * * * *

No person shall himself or by any person on his behalf manufacture for sale, or store, sell or distribute—

- (i) any adulterated food;
- (ii) any misbranded food;
- (iii) any article of food for the sale of which a licence is prescribed, except in accordance with the conditions of the licence;
- (iv) any article of food the sale of which is for the time being prohibited by the Food (Health) Authority with a view to preventing the outbreak or spread of infectious diseases; or
- (v) any article of food in contravention of any other provision of this Act or of any rule made thereunder.

ANALYSIS OF FOOD

8. Public Analysts.—The State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit and possessing such qualifications as may be prescribed, to be public analysts and define the local areas over which they shall exercise jurisdiction:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed:

Provided further that the State Government may appoint one public analyst for two or more local areas, such local areas being regarded as one unit for the purposes of this Act.

9. Food Inspectors.—(1) Subject to the provisions of section 14 the State Government may, by notification in the Official Gazette, appoint persons in such number as it thinks fit, having the prescribed qualifications to be food inspectors for the purposes of this Act, and they shall exercise their powers within such local areas as that Government may assign to them:

Provided that no person who has any financial interest in the manufacture, import or sale of any article of food shall be so appointed.

(2) Every food inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (Act XLV of 1860).

10. Powers of food inspectors.—(1) A food inspector shall have power—

(a) to take samples of any article of food from—

(i) any person selling such article:

(ii) any person who is in the course of conveying, delivering or preparing to deliver such article to a purchaser or consignee;

(iii) a consignee after delivery of any such article to him; and

(b) to send such sample for analysis to the public analyst for the local area within which such sample has been taken;

(c) with the previous approval of the health officer having jurisdiction in the local area concerned, or with the previous approval of the Food (Health) Authority, to prohibit the sale of any article of food with a view to preventing the outbreak or spread of any infectious disease.

(2) Any food inspector may enter and inspect any place where any article of food is manufactured, stored or exposed for sale and take samples of such articles of food for analysis.

(3) Where any sample is taken under clause (a) of sub-section (1) or sub-section (2), its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) If any article intended for food appears to any food inspector to be adulterated or misbranded, he may seize and carry away or keep in the safe custody of the vendor such article in order that it may be dealt with as hereinafter provided.

(5) The power conferred by this section includes power to break open any package in which any article of food may be contained or to break open the door of any premises where any article of food may be kept for sale:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.

(6) Any material found in the possession of a manufacturer of any article of food or in any of the premises occupied by him as such and being apparently of a kind which may be employed for purposes of adulteration and for the possession of which he is unable to account to the satisfaction of the food inspector, may be seized by the food inspector and if necessary a sample of such material submitted for analysis to a public analyst.

(7) Any food inspector may exercise the powers of a police officer under section 57 of the Code of Criminal Procedure, 1898 (Act V of 1898) for the purpose of ascertaining the true name and residence of the person from whom a sample is taken or an article of food is seized.

(8) Any food inspector exercising powers under this Act or under the rules made thereunder who—

(a) vexatiously and without any reasonable grounds of suspicion seizes any article of food; or

(b) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty shall be guilty of an offence under this Act and shall be punishable for such offence with fine which may extend to five hundred rupees.

11. Procedure to be followed by food inspectors.—(1) When a food inspector takes a sample of food for analysis, he shall—

(a) give notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample;

(b) except in special cases provided by rules under this Act, separate the sample then and there into three parts and mark and seal or fasten up each part in such a manner as its nature permits; and

(c) (i) deliver one of the parts to the person from whom the sample has been taken;

(ii) send another part for analysis to the public analyst; and

(iii) retain the third part for production in case any legal proceedings are taken or for analysis by the Director of the Central Food Laboratory under sub-section (2) of section 18, as the case may be.

(2) If the person from whom the sample has been taken declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it, either upon receipt of the sample or when he delivers his report, to be delivered to the food inspector who shall retain it for production in case legal proceedings are taken.

(3) When a sample of any article of food is taken under sub-section (1) or sub-section (2) of section 10, the food inspector shall send a sample of it in accordance with the rules prescribed for sampling to the public analyst for the local area concerned.

* * *

(4) An article of food seized under sub-section (4) of section 10, shall be produced before a magistrate as soon as possible:

Provided that in the case of any article of which samples have been sent to the public analyst for analysis it may be produced on or after the receipt of the report of the public analyst:

Provided further that if an application is made to the magistrate in this behalf by the person from whom any article of food has been seized, the magistrate shall by order in writing direct the food inspector to produce such article before him within such time as may be specified in the order.

(5) If it appears to the magistrate on taking such evidence as he may deem necessary that the article of food produced before him under sub-section (5) is adulterated, he may order it—

(a) to be forfeited to the local authority, or

(b) to be destroyed at the cost of the owner of or the person from whom it was seized so as to prevent its being used as human food,

(c) to be so disposed of as to prevent its being again exposed for sale or used for food under its deceptive name, or

(d) to be returned back to the owner for being sold under its appropriate name, after taking adequate guarantee from the owner.

(6) If it appears to the magistrate that any such article of food is not adulterated the person from whose possession the article was taken shall be entitled to have it restored to him and it shall be in the discretion of the magistrate to award such person from such fund as the State Government may direct in this behalf, such compensation not exceeding the actual loss which he has sustained as the magistrate may think proper.

12. Purchaser may have food analysed.—Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a food inspector from having such article analysed by the public analyst on payment of such fees as may be prescribed and from receiving from the public analyst a report of his analysis:

Provided that such purchaser shall inform the vendor at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the public analyst shows that the article of food is adulterated, the purchaser shall be entitled to get refund of the fees paid by him under this section.

13. Report of public analyst.—(1) The public analyst shall deliver, in such form as may be prescribed, a report to the food inspector of the result of the analysis of any article of food submitted to him for analysis.

(2) After the institution of a prosecution under this Act the accused vendor or the complainant may, on payment of the prescribed fee, make an application to the court for sending the part of the sample mentioned in sub-clause (i) or sub-clause (iii) of clause (c) of sub-section (1) of section 11 to the Director of the Central Food Laboratory for a certificate; and on receipt of the application the court shall first ascertain that the mark and seal or fastening as provided in clause (b) of sub-section (1) of section 11 are in tact and may then despatch the part of the sample under its own seal to the Director of the Central Food Laboratory who shall thereupon send a certificate to the court in the prescribed form within one month from the date of receipt of the sample, specifying the result of his analysis.

(3) The certificate issued by the Director of the Central Food Laboratory under sub-section (2) shall supersede the report given by the public analyst under sub-section (1).

(4) Where a certificate obtained from the Director of the Central Food Laboratory under sub-section (2) is produced in any proceeding under this Act, or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860), it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

(5) Any document purporting to be a report signed by a public analyst unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Director of the Central Food Laboratory, may be used as evidence of the facts stated therein in any

proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Act XLV of 1860):

Provided that any document purporting to be a certificate signed by the Director of the Central Food Laboratory shall be final and conclusive evidence of the facts stated therein.

MISCELLANEOUS

14. Import of food and sale of food in railway and other premises.—(1) The Central Government may, by notification in the Official Gazette, appoint any person to exercise the powers of a food inspector under sections 10 and 11,—

(a) at any major port, air port or land customs station in respect of any article of food which is being imported through such port or station;

(b) in respect of any railway station or group of railway stations where food is being sold

Provided that the Central Government may, instead of making any appointment under this section, authorise any food inspector in any State in which the major port, air port or land customs station or railway station is situate to exercise such powers.

(2) Every person appointed or authorised under sub-section (1) shall be deemed to be a food inspector for the purposes of this Act.

15. Notification of food poisoning.—The State Government may, by notification in the Official Gazette, require medical practitioners carrying on their profession in any local area specified in the notification to report all occurrences of food poisoning coming within their cognizance to such officer as may be specified in the notification.

16. Penalties.—(1) If any person—

(a) whether by himself or by any other person on his behalf, imports into India or manufactures for sale, or stores, sells or distributes, any article of food in contravention of any of the provisions of this Act or of any rule made thereunder, or

(b) prevents a food inspector from taking a sample as authorised by this Act, or

(c) prevents a food inspector from exercising any other power conferred on him by or under this Act, or

(d) being a manufacturer of an article of food, has in his possession, or in any of the premises occupied by him, any material which may be employed for the purpose of adulteration, or

(e) being a person in whose safe custody any article of food has been kept under sub-section (4) of section 10, tampers or in any other manner interferes with such article, or

(f) uses any report or certificate of a test or analysis made by the Director of the Central Food Laboratory, or by a public analyst or any extract thereof for the purpose of advertising any article of food, or

(g) whether by himself or by any person on his behalf gives to the purchaser a false warranty in writing in respect of any article of food sold by him,

he shall, in addition to the penalty to which he may be liable under the provisions of section 6, be punishable—

(a) for the first offence, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees;

(b) for a second offence with imprisonment for a term which may extend to two years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than two thousand rupees;

(c) for a third and subsequent offences, with imprisonment for a term which may extend to four years and with fine.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than three thousand rupees.

(2) If any person convicted of an offence under this Act commits a like offence afterwards it shall be lawful for the court before which the second or subsequent conviction takes place to cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct. The expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

17. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

18. Forfeiture of property.—Where any person has been convicted under this Act for the contravention of any of the provisions of this Act or of any rule thereunder, the article of food in respect of which the contravention has been committed may be forfeited to the Government.

19. Defences which may or may not be allowed in prosecutions under this Act.—(1) It shall be no defence in a prosecution for an offence pertaining to the sale of any adulterated or misbranded article of food to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

(2) A vendor shall not be deemed to have committed an offence if he proves—

(i) that the article of food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any, to the effect that it was of such nature, substance and quality;

(ii) that he had no reason to believe at the time when he sold it that the food was not of such nature, substance and quality; and

(iii) that he sold it in the same state as he purchased it:

Provided that such a defence shall be open to the vendor only if he has, within seven days of the receipt of a copy of the report of the public analyst, submitted to the food inspector or the local authority a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person:

Provided further that the warranty given by a person resident in any area in which this Act is not in force, shall be a defence to the vendor only if the vendor proves to the satisfaction of the court that he had taken reasonable steps to ascertain and did in fact believe in, the accuracy of the statement contained in the warranty.

(3) Any person by whom a warranty as is referred to in sub-section (2), is alleged to have been given shall be entitled to appear at the hearing and give evidence.

* * * * *

20. Cognizance and trial of offences.—(1) No prosecution for an offence under this Act shall be instituted except by, or with the written consent of, the State Government or a local authority or a person authorised in this behalf by the State Government or a local authority.

(2) No court inferior to that of a Presidency magistrate or a magistrate of the first class shall try any offence under this Act.

21. Magistrate's power to impose enhanced penalties.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any Presidency magistrate or any magistrate of the first class to pass any sentence authorised by this Act, in excess of his powers under section 32 of the said Code.

22. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

23. Power of the Central Government to make rules.—The Central Government may, after consultation with the Committee and subject to the condition of previous publication, make rules—

(a) specifying the articles of food or classes of food for the import of which a licence is required and prescribing the form and conditions of such licence, the authority empowered to issue the same and the fees payable therefor;

(b) defining the standards of quality for, and fixing the limits of variability permissible in respect of, any article of food;

* * * * *

(c) laying down special provisions for imposing rigorous control over the production, distribution and sale of any article or class of articles of food which the Central Government may, by notification in the official Gazette, specify in this behalf including registration of the premises where they are manufactured, maintenance of the premises in a sanitary condition and maintenance of the healthy state of human beings associated with the production, distribution and sale of such article or class of articles;

(d) restricting the packing and labelling of any article of food and the design of any such package or label with a view to preventing the public or the purchaser being deceived or misled as to the character, quality or quantity of the article;

(e) defining the qualifications, powers and duties of food inspectors and public analysts;

(f) prohibiting the sale or defining the conditions of sale of any substance which may be injurious to health when used as food or restricting in any manner its use as an ingredient in the manufacture of any article of food or regulating by the issue of licences the manufacture or sale of any article of food;

(g) defining the conditions of sale or conditions for licence of sale of any article of food in the interest of public health;

(h) specifying the manner in which containers for samples of food purchased for analysis shall be sealed up or fastened up;

(i) specifying a list of permissible preservatives, other than common salt and sugar, which alone shall be used in preserved fruits, vegetables or their products or any other article of food as well as the maximum amounts of each preservative;

(j) specifying the colouring matter and the maximum quantities thereof which may be used in any article of food;

(k) providing for the exemption from this Act or of any requirements contained therein and subject to such conditions, if any, as may be specified, of any article or class of articles of food;

(l) prohibiting or regulating the manufacture, transport or sale of any article known to be used as an adulterant of food;

(m) prohibiting or regulating—

(i) the addition of any water, or other diluent or adulterant to any article of food;

(ii) the abstraction of any ingredient from any article of food;

(iii) the sale of any article of food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

(iv) the mixing of two or more articles of food which are similar in nature or appearance;

(n) providing for the destruction of such articles of food as are not in accordance with the provisions of this Act or of the rules made thereunder.

24. Power of the State Government to make rules.—(1) The State Government may, after consultation with the Committee and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act in matters not falling within the purview of section 23.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) define the powers and duties of the Food (Health) Authority and local authority and jurisdiction of food inspectors and public analysts;

(b) prescribe the forms of licences for the manufacture for sale, for the storage, for the sale and for the distribution of articles of food or any specified article of food or class of articles of food, the form of application for such licences, the conditions subject to which such licences may be issued, the authority empowered to issue the same and the fees payable therefor;

(c) direct a fee to be paid for analysing any article of food or for any matter for which a fee may be prescribed under this Act;

(d) direct that the whole or any part of the fines imposed under this Act shall be paid to a local authority on realisation;

(e) provide for the delegation of the powers and functions conferred by this Act on the State Government or the Food (Health) Authority to subordinate authorities or to local authorities.

25. Repeal and saving.—(1) If, immediately before the commencement of this Act, there is in force in any State to which this Act extends any law corresponding to this Act, that corresponding law shall upon such commencement stand repealed:

Provided that in so far as any such corresponding law makes provision for any of the matters dealt with in section 7 or for the punishment of offences committed in contravention of any such law, the repeal shall take effect in a particular State or in any particular area thereof only on the date appointed by the State Government in respect of such State or such area thereof in exercise of the powers conferred upon it by sub-section (3) of section 1.

(2) Notwithstanding the repeal by this Act of any corresponding law, all rules, regulations and bye-laws relating to the prevention of adulteration of food, made under such corresponding law and in force immediately before the commencement of this Act shall, except where and so far as they are inconsistent with or repugnant to the provisions of this Act, continue in force until altered, amended or repealed by rules made under this Act.

The following Report of the Select Committee on the Bill to provide for the control by the Union of the tea industry, and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India was presented to the House of the People on 14th February, 1953:—

MEMBERS OF THE SELECT COMMITTEE

Shri T. T. Krishnamachari—*Chairman.*

Shri A. K. Pasu

Shri Upendranath Barman

Shri Kamakhya Prasad Tripathi

Prof. Nibaran Chandra Laskar

Shri Debeswar Sarmah

Shri Bhakt Darshan

Shri R. Venkataraman

Shri G. R. Damodaran

Shri Nageshwar Prasad Sinha

Shri Hem Raj

Shri N. M. Lingam

Shri H. Siddananjappa

Shri Bhagwat Jha Azad

Shri P. T. Chacko

Shri N. C. Chatterjee

Shri Hirendra Nath Mukerjee

Shri Hari Vinayak Pataskar

Shri Jaipal Singh

Shri Tridib Kumar Chaudhuri

Shri K. Kelappan

Shri Rayasam Seshagiri Rao

Shri Purnendu Sekhar Naskar

Shri Dev Kanta Borooah

Shri T. Subramanyam

Shri D. P. Karmarkar.

REPORT OF THE SELECT COMMITTEE

The Select Committee to which the Bill to provide for the control by the Union of the Tea industry and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India, was referred, have considered the Bill and I now submit this their report with the Bill as amended by the Committee annexed hereto.

1. Upon the changes proposed in the Bill which are not formal or consequential, the Select Committee note as follows :—

Long title.—The Select Committee have amended the long title of the Bill in order to show that control of the tea industry in some respects is also necessary under the International Tea Agreement.

Clause 3.—Besides making some consequential and formal amendments the Select Committee have omitted the definition of “grower” as unnecessary and have recast the definition of “tea” in order to bring it in line with the international definition.

Clause 4.—As the Tea Board will work under the general control and supervision of the Central Government, the Select Committee feel that there is no need for the Central Government to be represented on the Board; but it is felt at the same time that the Board should be apprised of the views of the Central Government before taking any decision. Hence the Select Committee have deleted item (g) of sub-clause (3) and have provided in new sub-clause (5) that any officer deputed by the Central Government shall be entitled to take part in the proceedings of the Board but shall not be entitled to vote. The Select Committee recommend that provision should be made in the rules for deputing officers of the Ministries of Finance, Commerce and Industry and Railways to attend meetings of the Board. The Select Committee have also deleted item (i) of sub-clause (3) as they feel that interests of commerce and industry have already been provided for elsewhere in this clause. With a view to widen the scope of choice the Select Committee have amended item (j) of sub-clause (3).

Clause 9.—The Select Committee while agreeing to leave this clause as it is, recommend that provision should be made in the rules for associating with the Board a member of the Union Public Service Commission or of the appropriate State Public Commission at the time of selecting officers drawing a salary of Rs. 350 or above but below Rs. 1,000 per month.

Clause 10.—The Select Committee have recast this clause from the drafting standpoint.

Clause 11.—The Select Committee are of the view that provisions should be made for the Board to be reconstituted after dissolution. The Select Committee have accordingly re-drafted this clause.

Clause 14.—The Select Committee feel that the proviso to sub-clause (3) was unduly restrictive and that the distinction contemplated in that proviso between a limited liability company and an individual proprietor should go and have accordingly deleted the proviso. The Select Committee, however, recommend that the rules under the Act should provide that previous approval of the Central Government should be obtained before granting permission in a case where the area planted with tea exceeds 500 acres.

Clause 17.—The Committee feel that there should be a general clause dealing with appeals not only against orders under clauses 14 and 15 but also against orders under clause 20. The Select Committee have accordingly omitted this clause and have inserted new clause 82.

Clause 21.—The Select Committee feel that tea estates and gardens which have gone out of production for more than two years should not be granted any export quotas. It was agreed by the Committee that provisions to this effect should be made in the rules.

Clause 26 (old clause 27).—The Select Committee have re-drafted this clause in order to make it consistent with the existing legal and constitutional position.

Clause 80 (old clause 31).—The Select Committee feel that in order to exercise effective control over the tea industry the Central Government should have power to control not only prices but also distribution of tea. The Select Committee have accordingly recast this clause.

Clause 82 (new).—The Select Committee have inserted this new clause providing for appeals against the orders of the Board under sections 14, 15 and 20.

Clause 85.—The Select Committee feel that no export quota should be allotted to a contumacious tea estate owner and that besides tea estate owners, manufacturers, brokers and dealers also should be required to furnish returns. The Select Committee have amended this clause accordingly.

Clause 41 (new).—The Select Committee have inserted this new clause to provide for penalty for contravention of orders relating to control of price and distribution.

Clause 49 (old clause 48).—Besides making some minor and consequential changes in this clause the Select Committee have inserted new sub-clause (3) providing for the laying of the rules before both Houses of Parliament.

2. The Select Committee have considered the amendments proposed by a member to provide for investigation into the affairs of any mis-managed tea estate to give directions to the owners and managers of estates for the better administration of such estates and for the taking over of the direct control and management thereof, if and when necessary, on the lines of sections 15, 16 and 17 of the Industries (Development and Regulation) Act. This question was discussed at length and it was felt that the analogous provisions of the Industries Act would not be suitable for application in the case of tea gardens. A majority of members of the Committee were, however, of the view that Government should have some powers to deal with estates which are mismanaged over a period of time and recommended that Government should take steps to introduce legislation to that end at an early date.

3. The Bill was published in Part II, section 2 of the *Gazette of India*, dated the 27th December, 1952.

T. T. KRISHNAMACHARI,
Chairman of the Select Committee.

NEW DELHI ;

The 14th February, 1953.

MINUTES OF DISSENT

I

While agreeing generally with the Bill as amended by the Select Committee I wish to append this note of dissent.

2. Clause 4(3) makes provision for the representation on the Tea Board, of the different interests involved. I feel that the small garden owners and growers as well as the small traders must receive adequate representation. So also those who represent the employees must be active

members of the labour union with the largest membership. This clause therefore requires suitable amendment.

3. Clause 10, sub-clause (2)(j) should be amended to ensure living wage for the labourers.

4. Clause 11 makes provision for the dissolution of the Board. It must be made clear that the dissolution will not adversely affect the interests of the staff and other employees.

5. Clause 51(8) while providing for the retention of all officers and employees of the Indian Tea Licensing Committee and the Central Tea Board when this Act takes their place, does not guarantee that their conditions of service, pay, allowances etc., will be maintained. One may admit that changes in the administrative staff may become necessary in the new set-up, but there is no reason why the employees should be considered as new entrants or their service and scale of pay should not be maintained.

6. One other matter I wish to point out is that for the effective implementation of this Act it may become necessary for the Government to take over the management of estates which contravene the provisions of the Act. Unless powers are taken in this Act itself to deal with such a contingency some of the important provisions of this Act will remain otiose. Therefore a clause should be added empowering the Government to take over the administration of estates whose management proves recalcitrant.

K. KELAPPAN.

NEW DELHI ;

The 14th February, 1953.

II

We regret to have to append this Note of Dissent from our colleagues on the Select Committee on the points stated below.

2. We feel there should be a proviso to clause 4(3) (a) in order to ensure that there is a majority of our own nationals in the category of "owners of tea estates and gardens and growers". This is necessary, we believe, in view of the present posture of our tea industry which is dominated by foreign interests.

3. In regard to clause 4(3) (b) we are of opinion that among appointees of Government in that category there should be at least one representative each nominated by the four principal all India organisations of the working class which are active in the Tea Garden areas, viz., the All India Trade Union Congress, the Indian National Trade Union Congress, the Hind Mazdoor Sabha and the United Trades Union Congress. It is common knowledge that in most tea estates and gardens there prevails, unfortunately, a state of things which is a negation of civil liberties, and specially of trade union rights. Workers and employees are generally subjected to conditions that are very like feudal terror and cannot always champion their own interests as effectively as they might wish to, because of the ever-present fear of victimisation, assault and other forms of physical and moral coercion. For the time being, therefore, they require a certain amount of assistance from organisations we have mentioned above, which are accepted by our working class as their accredited spokesmen.

The said four organisations were invited by the Government of India to the Tripartite Conference on the tea industry held lately in Calcutta and can very well be expected to uphold the real interests of those employed in tea estates and gardens and to fight the atmosphere of intimidation and demoralisation which weigh so heavily on tea garden workers. If in any number of statutes, Chambers of Commerce and Industry can find mention, there can be, we are convinced, no insuperable objection to the specific inclusion in the Bill of specific provisions for the representation of trade union organisations.

4. We suggest that in clause 4(8) (d) after the words "internal traders", the words "including small traders" be put in. These small traders have, as Government knows, their own organisation and feel very much in danger of being swamped by bigwigs in the trade. They require, and we may add deserve, special assistance particularly in the context of the present crisis.

5. Clauses 11 and 51(8) require, in our view, some amendment in order to ensure that persons now employed under the Board may be protected in respect of their continuity and conditions of service, *e.g.* pay, promotion, prospects etc. If, as we were told, there are at present instances of undesirable appointments, Government has sufficient powers to deal with such cases, but a hypothetical premise of this sort should not be utilised for placing the future of the generality of employees in serious jeopardy. We do not fear that many of the posts now in existence will be found to be superfluous, because we expect that the work of the Board will expand and if anything, its staff will require augmentation.

6. Regarding the amendments, to which reference is made in paragraph 2 of the Report, we are of opinion that in spite of certain legalistic doubts about the tenability in the Bill of provisions vesting Government with the right of investigating cases of mismanagement, of giving necessary directions for better administration, and of taking over, in recalcitrant instances, of direct control and management of defaulting estates, such provisions should specifically be incorporated in the Bill. We think that the legal position may reasonably be expected to be clarified by the time this Bill becomes part of the law of the land. We wish, therefore, that instead of a mere recommendation to Government to introduce fresh legislation to that end at an early date, such provisions should form part of the Bill as we report it back to Parliament. We owe it, we feel, to the basic interests of the country in general and of the tea industry in particular, to stress this point.

HIRENDRA NATH MUKERJEE.
TRIDIB KUMAR CHAUDHURI.

NEW DELHI ;

The 14th February, 1953.

III

I regret I cannot accept Clause 34 without the deletion of the words "or any member or officer of the Board". I fear the "Power of inspection" might lend itself to abuse by members of the Board representing heterogeneous and even conflicting interests.

JAIPAL SINGH.

NEW DELHI ;

The 14th February, 1953

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side lined or underlined indicate the amendment suggested by the Committee; asterisks indicate omissions.)

BILL No. 130-A OF 1952

A Bill to provide for the control by the Union of the tea industry, including the control, in pursuance of the International Agreement now in force, of the cultivation of tea in, and of the export of tea from India and for that purpose to establish a Tea Board and levy a customs duty on tea exported from India.

BE it enacted by Parliament as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Tea Act, 1953.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the control of the export of tea from, and the cultivation of tea in, India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Declaration as to expediency of control by the Union.—It is hereby declared that it is expedient in the public interest that the Union should take under its control the tea industry.

3. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Board" means the Tea Board constituted under section 4;

(b) "broker" means a broker of tea;

(c) "cess" means the customs-duty imposed by section 25;

(d) "Customs-collector" means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878 (VIII of 1878) for the purposes of that Act, or of that Act as applied to the import and export of goods by air, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924 (XIX of 1924), as the case may be;

(e) "dealer" means a dealer in tea;

(f) "export" means to take out of India by land, sea or air to any place outside India other than a country or territory notified in this behalf by the Central Government by notification in the Official Gazette;

(g) "export allotment" means the total quantity of tea which may be exported during any one financial year;

(h) "Fund" means the Tea * Fund referred to in section 27;

* * * * *

(i) "manufacturer" means a manufacturer of tea;

(j) "member" means a member of the Board;

(k) "owner"—

(i) with reference to a tea estate or garden or a sub-division thereof the possession of which has been transferred by lease, mortgage or otherwise, means the transferee so long as his right to possession subsists; and

(ii) with reference to a tea estate or a garden or a sub-division for which an agent is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "standard export figure" means such quantity as the Central Government may, by notification in the Official Gazette, specify pursuant to any international agreement in this behalf;

(n) "tea" means the plant *Theasinensis* as well as all varieties of the product known commercially as tea made from the leaves of the plant *Theasinensis* including green tea * * *;

(o) "tea seed" includes seeds, roots, stumps, cuttings, buds, and any living portion of the plant *Theasinensis* which may be used to propagate that plant.

CHAPTER II

THE TEA BOARD

4. Establishment and constitution of the Tea Board.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, there shall be established for the purposes of this Act a Board to be called the Tea Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The Board shall consist of a Chairman and such number of other members not exceeding forty as the Central Government may think expedient, to be appointed by that Government by notification in the Official Gazette from among persons who are in its opinion capable of representing,—

- (a) owners of tea estates and gardens and growers of tea;
- (b) persons employed in tea estates and gardens;
- (c) manufacturers of tea;
- (d) dealers including both exporters and internal traders of tea;
- (e) consumers;
- (f) Parliament;

* * * * *

(g) the Governments of the principal tea growing States;

* * * *

(h) such other persons or class of persons, * * * who, in the opinion of the Central Government, ought to be represented on the Board.

(4) The number of persons to be appointed as members from each of the categories specified in sub-section (3), the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling * vacancies among, the members of the Board shall be such as may be prescribed.

(5) Any officer of the Central Government when deputed by that Government in this behalf shall have the right to attend meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.

5. Vacancies, etc., not to invalidate acts and proceedings.—No act done or proceeding taken by the Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

6. Salary and allowances of Chairman.—The Chairman shall be entitled to such salary and allowances and such conditions of service in respect of leave, pension, provident fund and other matters as may from time to time be fixed by the Central Government.

7. Vice-Chairman.—The Central Government shall appoint from among the members of the Board a Vice-Chairman, who shall exercise such of the powers and discharge such of the duties of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

8. Executive and other Committees.—(1) There shall be an Executive Committee of the Board constituted in the manner prescribed.

(2) The Executive Committee shall exercise such of the powers and perform such of the duties of the Board as may be prescribed, or as the Board may delegate to it.

(3) Subject to such control and restrictions as may be prescribed the Board may constitute other Standing Committees or *ad hoc* Committees for exercising any power or discharging any duty of the Board or for enquiring into or reporting and advising on any matter which the Board may refer to them.

(4) A Standing Committee shall consist exclusively of members of the Board.

(5) An *ad hoc* Committee may include persons who are not members of the Board, but their number shall not exceed one half of its strength.

9. Secretary and staff.—(1) The Central Government shall appoint—

(a) a Secretary to the Board who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman;

(b) all other officers of the Board drawing a salary of rupees one thousand or more per month.

(2) Subject to such control and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions and pay them such salaries and allowances as it may determine from time to time.

(3) The Chairman, Secretary and other employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

10. Functions of the Board.—(1) It shall be the duty of the Board to promote by such measures as it thinks fit the development under the control of the Central Government of the tea industry.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) regulating the production and extent of cultivation of tea;

(b) improving the quality of tea;

(c) promoting co-operative efforts among growers and manufacturers of tea;

(d) undertaking, assisting or encouraging scientific, technological and economic research and maintaining or assisting in the maintenance of demonstration farms and manufacturing stations;

(e) assisting in the control of insects and other pests and diseases affecting tea;

(f) regulating the sale and export of tea;

(g) training in tea tasting and fixing grade standards of tea;

(h) increasing the consumption in India and elsewhere of tea and carrying on propaganda for that purpose;

(i) registering and licensing of manufacturers, brokers, tea waste dealers and persons engaged in the business of blending tea;

(j) improving the marketing of tea in India and elsewhere;

(k) collecting statistics from growers, manufacturers, dealers and such other persons as may be prescribed on any matter relating to the tea industry; the publication of statistics so collected or portions thereof or extracts therefrom;

(l) securing better working conditions and the provisions and improvement of amenities and incentives for workers;

(m) such other matters as may be prescribed.

(3) The Board shall perform its functions under this section in accordance with and subject to such rules as may be made by the Central Government.

11. Dissolution of the Board.—(1) The Central Government may, by notification in the Official Gazette, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification.

(2) When the Board is dissolved under the provisions of sub-section (1)—

(a) all members shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf;

(c) all funds and other property vested in the Board shall, during the period of dissolution, vest in the Central Government; and

(d) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III

CONTROL OVER THE EXTENSION OF TEA CULTIVATION

12. Method of control of extension of tea cultivation.—(1) No one shall plant tea on any land not planted with tea on the date of commencement of this Act unless permission has been granted to him in writing by or on behalf of the Board.

(2) No tea area shall be replaced by planting tea on area not planted with tea unless permission has been granted in writing by or on behalf of the Board.

(3) Nothing in this section shall prohibit the infilling or supplying of vacancies on land planted with tea on the date of commencement of this Act or the replanting of tea upon—

(i) land planted with tea on the 31st day of March, 1950, from which original bushes have been uprooted, or

(ii) land planted with tea on the 31st day of March, 1948, from which the original bushes have been uprooted.

13. Limitations to the extension of tea cultivation.—(1) Subject to the provisions contained in sections 15 and 16, the total area of land in respect of which the permission referred to in section 12 may be granted, shall not exceed such area as may be determined by the Board under the general instructions of the Central Government.

(2) The total area of land in any State in respect of which such permission may be granted shall be such as may be determined by the Board.

Provided that the Board may vary the total area so determined for any State in order to increase or diminish for another State the area in respect of which such permission may be granted by an amount corresponding to the extent to which the area in the first mentioned State has been diminished or increased.

(3) The Board shall publish the total area determined for India as well as the total areas determined for the various States by notification in the Official Gazette of the Central Government as soon as may be after the commencement of this Act and shall in like manner publish any subsequent variation of such total areas.

14. Grant of permission to plant tea.—(1) Applications for permission to plant tea on any land not planted with tea on the date of commencement of this Act shall be made to the Board and shall contain a clear statement of all special circumstances justifying the application.

(2) The Board may require an applicant to supply such information as it thinks necessary to enable the Board to deal with the application.

(3) Subject to such conditions and restrictions as may be prescribed, the Board may by order grant or refuse the permission applied for, or may in like manner grant it in part only or may call for further information from the applicant.

* * * * *

(4) No order by the Board under sub-section (3) shall be called in question by any court.

15. Grant of permission to plant tea in special circumstances.—(1) Where any land which was on the 31st day of March, 1938, planted with tea (including land planted with tea on the 31st day of March, 1931 from which the original bushes had been uprooted and which had not been replanted with tea on the said 31st day of March, 1938), or where any land planted with tea after the 31st day of March, 1938—

(a) has since become wholly incapable of carrying tea through circumstances due to war, or through subsidence, flood, erosion, earthquake or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, 1894 (I of 1894), or of any other law for the time being in force and no longer carries tea, or

(c) has since been transferred to the Central or a State Government or to a local authority and no longer carries tea, or

(d) has since been resumed by the lessor under the terms of any lease and no longer carries tea,

the owner of the tea estate in which such land is situated may apply to the Board for permission to plant tea on land not planted with tea.

Explanation.—Land taken for purposes connected with the prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this section to be incapable of carrying or no longer to carry tea.

(2) Upon such application being made and upon proof to the satisfaction of the Board that the applicant is entitled to the benefit of sub-section (1) the Board may by order grant permission to plant tea on land not planted with tea:

Provided that the area of land in respect of which such permission is granted shall be within the same or an adjacent district and shall belong to the same or an adjacent tea estate and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, transferred or resumed, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purpose of section 18 the total area of land in respect of which the permission referred to in section 12 may be granted.

(4) If any land falling within the *Explanation* to sub-section (1) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (2).

16. Tea nurseries.—(1) The owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for infilling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Board.

(2) All areas of land utilised for nurseries in accordance with this section shall be excluded when computing for the purpose of section 18 the total area of land in respect of which the permissions referred to in section 12 may be granted.

* * * * *

CHAPTER IV

CONTROL OVER THE EXPORT OF TEA AND TEA SEED

17. Control of export of tea and tea seed.—(1) No tea shall be exported unless covered by a licence issued by or on behalf of the Board.

(2) No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.

(3) No tea or tea seed shall be taken by land, sea or air out of any State to any of the French or Portuguese Settlements bounded by India, unless covered by a permit issued by or on behalf of the Board.

18. Tea or tea seed for export to be covered by licence or permit.—(1) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence or a valid permit issued by or on behalf of the Board or the Central Government, as the case may be, covering the quantity to be shipped.

(2) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage (or shall be taken by land or air) to any of the French or Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Board covering the quantity to be shipped.

(3) No permit for the passage of any tea or tea seed by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924 (XIX of 1924), unless the application for such permit is accompanied by a permit granted in this behalf by the Board covering the quantity to be
 18444

19. Export allotment.—The Central Government shall, after consulting the Board and paying due regard to all interests concerned and to the standard export figure, declare, by notification in the Official Gazette, the export allotment for each financial year:

Provided that the Central Government may by subsequent notification at any time during the financial year alter the export allotment and thereupon the export allotment as so altered shall be the export allotment for that year.

20. Export quotas and licences.—(1) Subject to such conditions as may be prescribed, any tea estate or any sub-division of a tea-estate shall have the right to receive under this Act an export quota for each financial year.

(2) The export quota of a tea estate, or a sub-division of a tea estate that is, the total quantity of tea which may be exported by the owner of a tea estate or a sub-division of a tea estate during the financial year, shall be an amount determined by the Board in accordance with such principles as may be prescribed:

Provided that when an export allotment is altered under the provisions of section 19, the export quota shall be liable to be altered accordingly.

(3) The total of export quotas allotted to tea estates and to sub-divisions thereof at any time during any financial year shall not exceed the export allotment for the time being for that year.

21. Right to export licences.—(1) The owner of a tea estate or a sub-division of a tea estate to which an export quota has been allotted for any financial year shall have the right to obtain at any time export licences during that year to cover the export of tea upto the amount of the unexhausted balance of the quota, that is, upto the amount of the quota less the amount for which the export licences have already been issued against it.

(2) The right of the owner of a tea estate or a sub-division of a tea estate under this section may be transferred subject to such conditions as may be prescribed, and the transferee of any such right may again transfer the whole or any part of his right to the owner of a tea estate, or a sub-division of a tea estate but not to any other person:

Provided that nothing in this sub-section shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.

(3) The owner of any tea estate or any sub-division of a tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21st day of March of the financial year to which the quota relates apply in writing to the Board for an export licence to cover the export of tea upto the amount of the unexhausted balance of the quota.

(4) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the end of the financial year in which it is issued:

Provided that, save as provided in section 22, the Board shall not issue any export licence after the end of the financial year in which the application for licence was made.

22. Special export licences.—(1) Where tea in respect of which an export licence has been or could have been granted under this Act has not been exported before the end of the financial year in which the licence was or could have been issued, the person to whom the licence was or could have been granted may, before the 14th day of April of the following financial year forward an application to the Board for a special export licence covering the same quantity of tea, and the Board shall, on receipt of the prescribed fee, if any, issue a special export licence accordingly.

(2) A person to whom a special export licence has been issued under sub-section (1) may transfer the special export licence with all the rights conferred thereby to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.

(3) A special export licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid upto the 31st day of May of the financial year in which it was issued.

(4) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act.

(5) Notwithstanding anything contained in the foregoing sub-sections the Board may, with the general or special previous sanction of the Central Government refuse to issue a special export licence or postpone for so long as the Central Government may require the issue of any special export licence.

23. Board to maintain accounts of quotas.—(1) The Board shall maintain an account of every export quota showing, in addition to such other particulars as the Board may think fit, the licences issued against it and the unexhausted balance.

(2) Any owner of a tea estate or a sub-division of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws made by the Board.

24. Limitation of application of Chapter.—Nothing in this Chapter shall apply to tea—

(a) proved to the satisfaction of the Customs-collector to have been imported into India from any port outside India; or

(b) shipped as stores on board any vessel or aircraft in such quantity as the Customs-collector considers reasonable having regard to the number of the crew and passengers and length of the voyage on which the vessel or aircraft is about to depart; or

(c) exported by post in packages not exceeding three pounds *avoirdupois* in weight; or

(d) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas; or

(e) taken as part of the personal luggage of a passenger.

CHAPTER V

FINANCE, ACCOUNTS AND AUDIT

25. Imposition of a duty of customs on export of tea.—(1) A duty of customs shall be levied and collected on all tea exported or taken outside India at such rate not exceeding two rupees per one hundred pounds as the Central Government may notify in the Official Gazette.

(2) The duties of customs levied under sub-section (1) shall be collected by such agencies and in such manner as may be prescribed.

26. Payment of duties of customs to the Board.—The proceeds of the duties of customs shall first be credited to the Consolidated Fund of India, and the Central Government may thereafter, from time to time, pay to the Board from and out of such proceeds such sums of money as it may think fit after deducting the expenses of collection.

27. Constitution of Fund.—(1) There shall be formed a Fund to be called the ~~Tea~~* Fund, and there shall be credited thereto—

(a) the proceeds of the duties of customs made over to the Board by the Central Government;

(b) all fees levied and collected in respect of licences, permits and permissions issued under this Act; and

(c) any other fee that may be levied and collected under this Act or the rules made thereunder.

(2) The Fund shall be applied towards meeting the expenses of the Board and the cost of the measures referred to in section 10.

28. Borrowing powers of Board.—Subject to such rules as may be made in this behalf, the Board shall have power to borrow on the security of the Fund or any other asset for any purposes for which the Fund may be applied.

29. Accounts and audit.—(1) The Board shall cause accounts to be kept of all moneys received and expended by it.

(2) The accounts shall be audited every year by auditors appointed in this behalf by the Central Government and such auditors shall disallow every item, which in their opinion is not authorised by the Act or any rule made or direction issued thereunder.

(3) The Board may, within three months from the date of communication to it of the disallowance of any item, as aforesaid, appeal against such disallowance to the Central Government whose decision shall be final.

CHAPTER VI

CONTROL BY THE CENTRAL GOVERNMENT

30. Power to control price and distribution of tea or tea waste.—(1) The Central Government may, by order notified in the Official Gazette, fix in respect of tea of any description specified therein—

(a) the maximum price or the minimum price or the maximum and minimum prices which may be charged by a grower of tea, manufacturer or dealer, wholesale or retail, whether for the Indian market or for export;

(b) the maximum quantity which may in one transaction be sold to any person.

(2) Any such order may for reasons to be specified therein—

(a) fix prices for such tea differently in different localities or for different classes of dealers, or for growers of tea or manufacturers;

(b) instead of specifying the price or prices to be charged, direct that price or prices shall be computed in such manner and by reference to such matters as may be provided by the order.

(3) The Central Government may, by general or special order—

(a) prohibit the disposal of tea or tea waste except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of the whole or a specified part of the stock of tea or tea waste at such prices and to such persons or class of persons or in such circumstances as may be specified in the order;

(c) regulate by licences, permits or otherwise the production, storage, transport or distribution of tea or tea waste.

(4) Without prejudice to the generality of the powers conferred by sub-sections (1) and (3), any order made thereunder may provide—

(a) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, tea or tea waste to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(b) for such other matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search, of tea or tea waste in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents and the charging of fees therefor.

31. General control over acts and proceedings of the Board.—(1) All acts and proceedings of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

(3) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

32. Appeal to Central Government.—Any person aggrieved by an order of the Board under section 14, section 15 or section 20 may appeal to the Central Government within sixty days from the date thereof and the Central Government may cancel, modify or suspend any such order.

CHAPTER VII

MISCELLANEOUS

33. Licensing of brokers, tea manufacturers, etc.—The Central Government may whenever it thinks it necessary so to do, by notification in the Official Gazette require that no person shall on and from such date as may be specified in the notification engage himself as a broker, manufacturer, or dealer in tea waste or engage himself in the business of blending tea except under and in accordance with the provisions of a licence issued by the Board in accordance with the rules made under this Act; and any person who on and after such date so engages himself without obtaining a licence issued by the Board shall be deemed to have contravened the provisions of this section.

34. Power of inspection.—Any person authorised in this behalf by the Central Government or by the Board or any member or officer of the Board may enter at all reasonable times any tea estate or any place or premises where tea or tea waste is stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the production, storage or keeping for sale of tea or tea waste.

35. Power of Board to call for returns.—(1) The Board may serve by post a notice upon the owner of any tea estate or any sub-division of a tea estate or upon his manager, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the production, sale and export of tea produced on the estate or to any other matter as it may deem necessary.

(2) Where the owner of any tea estate or any sub-division of a tea estate or his manager being required under sub-section (1) to furnish any return fails to furnish such return within the period specified in the notice or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true, the Board may refuse to allot an export quota to that estate or sub-division under section 20, or where an export quota has already been allotted, may cancel the unexhausted balance of that quota and refuse to issue any further export licences against that quota or recognise or give effect to any transfer of quota under section 21.

(3) The Board may serve by post a notice upon any manufacturer, broker, dealer or dealer in tea waste, requiring him to furnish, within such period as it may specify in the notice, such returns relating to the manufacture, stock, purchase, sale or export of tea or tea waste as it may deem necessary.

36. Penalty for illicit export.—A breach of the provisions of sub-section (1) or sub-section (2) of section 18 shall be punishable as if it were an offence under item No. 8 of section 167 of the Sea Customs Act, 1878 (VIII of 1878), and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly.

37. Penalty for making false return.—Any person who being required by or under this Act to furnish any return fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

38. Penalty for obstructing an officer or member of the Board in the discharge of his duties and for failure to produce books and records.—Any person who—

(a) obstructs a member or officer of the Board or a person authorised in this behalf by the Central Government or by the Board in the exercise of any power conferred, or in the discharge of any duty imposed, on him by or under this Act, or

(b) having the control or custody of any account book or other record, fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

39. Penalty for illicit cultivation.—Whoever knowingly plants tea or causes tea to be planted on any land in contravention of section 12 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

40. Removal of tea planted without permission.—Where any person has been convicted of any offence under section 39, the convicting court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and in the event of the order not being duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were an arrear of land revenue due on the tea estate on which the offence was committed.

41. Penalty for contravention of order relating to control of price and distribution.—(1) If any person contravenes any order made under sub-section (1) or sub-section (3) of section 30, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and the property in respect of which the order has been contravened or such part thereof as to the court may seem fit, shall be forfeited to the Central Government.

(2) Any person who attempts to contravene or abets the contravention of, any order under sub-section (1) or sub-section (3) of section 30 shall be deemed to have contravened that order.

42. Other penalties.—Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, punishment for the contravention whereof has been provided for in sections 36, 37, 38, 39 and 41 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and in the case of a continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

43. Offences by companies.—(1) If the person committing an offence under this Act, or the rules thereunder is a company, every person, who at the time the contravention was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act or the rules thereunder has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

44. Jurisdiction of courts.—No court inferior to that of a Presidency magistrate or a magistrate of the First Class shall try any offence punishable under this Act

45. Previous sanction of Central Government for prosecution.—No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

46. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

47. Power to delegate.—The Central Government may, by order notified in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order by such officer or authority as may be specified therein.

48. Suspension of operation of Act.—(1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers it necessary or expedient so to do in the public interest, the Central Government may, by notification in the Official Gazette, suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(2) Where the operation of any provisions of this Act has under subsection (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the Official Gazette.

49. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(a) the constitution of the Board, the number of persons to be appointed as members from each of the categories specified in subsection (3) of section 4, the term of office and the other conditions of service of, the procedure to be followed by, and the manner of filling * vacancies among, the members of the Board;

(b) the circumstances in which, and the authority by which members may be removed;

(c) the holding of a minimum number of meetings of the Board every year;

(d) the pay, allowances and other conditions of service of the Secretary and other officers appointed by the Central Government ;

(e) the maintenance of records of all business transacted at meetings of the Board and the submission of copies of such records to the Central Government ;

(f) the conditions subject to which, and the mode in which, contracts may be made by or on behalf of the Board ;

(g) the preparation of budget estimate of the receipts and expenditure of the Board and the authority by which such estimates shall be sanctioned ;

(h) the powers of the Board and the Executive Committee and the Chairman, in regard to the incurring of expenditure ; and the re-appropriation of estimated savings in any budget head to another such head ;

(i) the conditions subject to which the Board may incur expenditure ;

(j) the conditions subject to which the Board may borrow ;

(k) the form and the manner in which accounts should be kept by the Board ;

(l) the basis on which the export quota of a tea estate or a sub-division of a tea estate shall be determined ;

(m) the conditions subject to which export quota, export licences and special export licences shall be transferable ;

(n) the conditions subject to which permits for the planting of tea on land not carrying tea shall be granted ;

(o) the collection of any information or statistics in respect of the tea industry and the tea trade ;

(p) the fees to be levied in respect of licences, permits and permissions issued under this Act ;

(q) the procedure for the grant or issue of licences, permits and permissions under this Act, the time within which such licences, permits or permissions shall be granted or issued including, in particular, the publication of notices calling for applications and the holding of such * inquiry in regard thereto as may be necessary in the circumstances ;

(r) the form of application for licences, permits or permissions under this Act ;

(s) the manner in which a broker or a dealer in tea waste or a manufacturer shall be licensed under this Act and the levy of fees in respect of such licence ;

(t) the matters which may be taken into account in the granting or issuing of any licence, permit or permission under this Act including in particular the previous consultation with the Central Government by the Board in regard to the grant or issue of any such licences, permits or permissions;

(u) the conditions which may be included in any licences, permits or permissions;

(v) the returns to be furnished by owners of tea estates, or subdivisions thereof, manufacturers, dealers and brokers relating to the production, manufacture, stock, sale and export of tea and tea waste and the form and manner in which such returns are to be furnished;

(w) the fees to be charged for granting certified copies of accounts of quotas;

(x) any other fee that may be necessary for the Board to levy in order to determine or redetermine the basis on which export quota may be fixed;

(y) any other matter which is to be or may be prescribed.

(3) All rules under this Act shall, as soon as they are made, be laid before both Houses of Parliament.

50. Power of Board to make by-laws.—(1) The Board may make by-laws consistent with this Act and the rules made thereunder, to provide for—

(a) the dates, times and places of its meetings and of the meetings of the Executive and other Committees and quorum for such meetings, and the procedure thereat;

(b) the delegation of powers and duties to the Executive or any other Committee, or to its Chairman, Vice-Chairman, Secretary or any other of its officers;

(c) the travelling allowances of members and of members of Committees;

(d) the appointment, promotion and dismissal of its officers and other employees other than those appointed by the Central Government and the creation and abolition of their posts;

(e) the conditions of service of its officers and other employees other than those appointed by the Central Government, including their pay, leave, leave allowances, pensions, gratuities, compassionate allowances and travelling allowances and the establishment and maintenance of a provident fund for them;

(f) the maintenance of its accounts;

(g) the persons by whom, and the manner in which payments, deposits and investments may be made on its behalf;

(h) the custody of moneys required for its current expenditure and the investment of moneys not so required;

(i) the preparation of statements showing the sums allotted to Departments of the Central and State Governments and other institutions.

(2) No by-law shall take effect until it has been confirmed by the Central Government and published in the Official Gazette, and the Central Government, in confirming a by-law may make any change therein which appears to be necessary.

(3) The Central Government may, by notification in the Official Gazette, cancel any by-law which it has confirmed and thereupon the by-law shall cease to have effect.

51. Repeals and savings.—(1) The Indian Tea Control Act, 1938 (VIII of 1938) and the Central Tea Board Act, 1949 (XIII of 1949) are hereby repealed.

(2) All moneys and other property and all rights and interests, of whatever kind, owned by, vested in, used, enjoyed or possessed by, or held in trust by or for, the Indian Tea Licensing Committee constituted under the Indian Tea Control Act, 1938, and the Central Tea Board constituted under the Central Tea Board Act, 1949, as well as all liabilities legally subsisting against that Committee or that Board shall pass to the Board with effect from the commencement of this Act.

(3) All officers and other employees of the Indian Tea Licensing Committee and the Central Tea Board who hold office as such immediately before the commencement of this Act shall be deemed to have been appointed as officers or other employees of the Board with effect from the commencement of this Act and, notwithstanding anything contained in any contract of service entered into by any such officer or other employee with the Indian Tea Licensing Committee or the Central Tea Board, shall be entitled to such pay and allowances and to such conditions of service in respect of other matters as may be determined by the Board with the approval of the Central Government.

(4) Any proceedings taken by the Indian Tea Licensing Committee or the Central Tea Board before the commencement of this Act may be continued by the Board after such commencement.

(5) Until action in that behalf is otherwise taken under the corresponding provisions of this Act or the rules made thereunder, all licences, permits and permissions issued or granted, all export quotas allotted and all fees fixed under the provisions of the Indian Tea Control Act, 1938, shall, unless inconsistent with the provisions of this Act, be deemed to have been issued, granted, allotted or fixed under the corresponding provisions of this Act and the rules made thereunder.

(6) Any offence punishable under the Indian Tea Control Act, 1938, or the Central Tea Board Act, 1949, shall be punishable and may be dealt with as if it were an offence punishable under the corresponding provisions of this Act.

(7) Any other thing or action done or taken before the commencement of this Act by the Indian Tea Licensing Committee or the Central Tea Board shall so long as it is not inconsistent with any of the provisions of this Act, be as valid and effectual as if it had been done or taken by the Board after the commencement of this Act.

(8) For the removal of doubts, it is hereby declared that the provisions contained in sub-sections (2) to (7) inclusive shall be without prejudice to the general application of section 6 of the General Clauses Act, 1897 (X of 1897).

(9) If any difficulty arises in giving effect to any of the provisions of this Act, the Central Government may as occasion may arise, by order, do anything which appears to be necessary for the purpose of removing the difficulty.

The following Bill was introduced in the House of the People on 10th February, 1953:—

BILL* No. 5 OF 1953

A Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1952-53.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Appropriation Act, 1953.

2. Issue of Rs. 48,69,50,000 out of the Consolidated Fund of India for the year 1952-53.—From and out of the Consolidated Fund of India there may be paid and applied sums not exceeding those specified in column 3 of the Schedule amounting in the aggregate to the sum of forty-six crores, sixty-nine lakhs and fifty thousand rupees towards defraying the several charges which will come in course of payment during the financial year 1952-53, in respect of the services specified in column 2 of the Schedule.

3. Appropriation.—The sums authorised to be paid and applied from and out of the Consolidated Fund of India by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

THE SCHEDULE
(See sections 2 and 3)

1	2	3		
		Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	TOTAL
No. of Vote	Services and Purposes			
		Rs.	Rs.	Rs.
1	Ministry of Commerce and Industry	1,92,000	..	1,92,000
4	Miscellaneous Departments and Expenditure under the Ministry of Commerce and Industry.	1,46,000	..	1,46,000

*The President has, in pursuance of clauses (1) and (3) of article 117 of the Constitution of India, recommended to the House of the People the introduction and consideration of the Bill.

1 No. of Vote	2 Services and Purposes	3 Suma not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	TOTAL
		Rs.	Rs.	Rs.
6	Indian Posts and Telegraphs Department (including working expenses).	..	8,60,000	8,60,000
9	Aviation	10,000	10,000
10	Miscellaneous Expenditure under the Ministry of Communications.	26,000	..	26,000
31	Payments to other Governments, Departments, etc., on account of the administration of Agency subjects and management of Treasuries.	51,000	..	51,000
33	Currency	50,000	50,000
36	Superannuation Allowances and Pensions.	14,00,000	..	14,00,000
38	Grants-in-aid to States	5,65,00,000	5,65,00,000
39	Miscellaneous Adjustments between the Union and State Governments.	37,000	..	37,000
49	Miscellaneous Expenditure under the Ministry of Food and Agriculture.	6,11,00,000	..	6,11,00,000
53	Miscellaneous Expenditure under the Ministry of Health.	13,84,000	..	13,84,000
57	Police	9,94,000	..	9,94,000
60	Andaman and Nicobar Islands. .	2,40,000	..	2,40,000
69	Administration of Justice . .	57,000	..	57,000
70	Ministry of Natural Resources and Scientific Research	35,000	..	35,000
79	Expenditure on Displaced Persons.	1,00,57,000	..	1,00,57,000
87	Relations with States . . .	2,34,000	..	2,34,000
88	Miscellaneous Expenditure under the Ministry of States.	9,30,000	..	9,30,000
91	Lighthouses and Lightships . .	4,99,000	..	4,99,000

1	2	3		
No. of Vote	Services and Purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consoli- dated Fund	TOTAL
		Rs.	Rs.	Rs.
96	Supplies	69,86,000	..	69,86,000
97	Salt	2,00,000	..	2,00,000
103-A	Secretariat of the Vice-President .	28,000	..	28,000
	CHARGED—Union Public Service Commission.	..	1,92,000	1,92,000
105	Capital Outlay on Indian Posts and Telegraphs (Not met from Re- venue).	1,00,00,000	..	1,00,00,000
112	Commuted Value of Pensions . .	10,77,000	..	10,77,000
114	Other Capital Outlay of the Ministry of Finance.	16,57,36,000	..	16,57,36,000
115	Loans and Advances by the Central Government.	..	13,28,00,000	13,28,00,000
123	Capital Outlay on Multipurpose River Schemes.	1,08,30,000	..	1,08,30,000
124	Other Capital Outlay of the Mi- nistry of Natural Resources and Scientific Research.	82,000	..	82,000
126	Capital Outlay of the Ministry of States.	36,17,000	..	36,17,000
	TOTAL .	27,65,38,000	19,04,12,000	46,69,50,000

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 114(1) of the Constitution of India, read with article 115 thereof, to provide for the appropriation out of the Consolidated Fund of India of the moneys required to meet the supplementary expenditure charged on the Consolidated Fund and the grants made by Parliament for expenditure of the Central Government, excluding Railways, for 1952-53.

C. D. DESHMUKH.

NEW DELHI;

The 14th February, 1953.

M. N. KAUL,
Secretary.

